

FILE COPY

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
ELIJAH RODRIGUEZ, an infant under the age of Eighteen, Index No.: 8742/07  
by his father and natural guardian, ARISTEDES  
RODRIGUEZ, and ARISTEDES RODRIGUEZ,  
Individually,

Plaintiffs,

**VERIFIED ANSWER TO  
VERIFIED COMPLAINT**

- against -

ROYAL CONSUMER INFORMATION PRODUCTS,  
INC.,

Defendant.

-----X  
Defendant, ROYAL CONSUMER INFORMATION PRODUCTS, INC., by its attorneys,  
Harrington, Ocko & Monk, LLP, as and for its Answer to Plaintiffs' Verified Complaint, alleges  
as follows:

**AS AND FOR DEFENDANT'S ANSWER TO  
PLAINTIFFS' FIRST CAUSE OF ACTION**

1. Denies having knowledge or information sufficient to form a belief as to the allegations contained in paragraphs designated "1", "2", "9" and "11".
2. Denies the allegations contained in paragraphs designated "3", "4", "5", "6", "7", "8", "14" and "16", and respectfully refer all questions of law to the Honorable Justice presiding at the trial of this lawsuit.
3. Deny each and every allegation contained in paragraphs designated "10", "12", "13" and "15".

**AS AND FOR DEFENDANT'S ANSWER TO  
PLAINTIFFS' SECOND CAUSE OF ACTION**

4. Defendant repeats, reiterates and re-alleges each and every admission or denial heretofore made in response to paragraphs "1" through "16" with the same force and effect as though fully set forth herein.

5. Denies each and every allegation contained in paragraphs designated "18", "20" and "21".

6. Denies having knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "19".

**AS AND FOR DEFENDANT'S ANSWER TO  
PLAINTIFFS' THIRD CAUSE OF ACTION**

7. Defendant repeats, reiterates and re-alleges each and every admission or denial heretofore made in response to paragraphs "1" through "21" with the same force and effect as though fully set forth herein.

8. Denies each and every allegation contained in paragraphs designated "23", "24", "25", "27", "28", "29", "30", "31" and "33".

9. Denies having knowledge or information sufficient to form a belief as to the allegations contained in paragraph designated "26".

10. Denies the allegations contained in paragraph designated "32", and respectfully refer all questions of law to the Honorable Justice presiding at the trial of this lawsuit.

**AS AND FOR DEFENDANT'S ANSWER TO  
PLAINTIFFS' FOURTH CAUSE OF ACTION**

11. Defendant repeats, reiterates and re-alleges each and every admission or denial heretofore made in response to paragraphs "1" through "33" with the same force and effect as though fully set forth herein.

12. Denies having knowledge or information sufficient to form a belief as to the allegations contained in paragraphs designated "35" and "36".

13. Denies each and every allegation contained in paragraphs designated "37" and "38".

**AS AND FOR A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE  
DEFENSE, DEFENDANT ALLEGES AS FOLLOWS:**

14. That no jurisdiction was ever obtained over this Defendant in the state of New York, nor was jurisdiction ever obtained over the property of this Defendant in the State of New York; therefore, any action taken against this Defendant is void and has no effect.

**AS AND FOR A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE  
DEFENSE, DEFENDANT ALLEGES AS FOLLOWS:**

15. That the equitable share of this Defendant's joint liability, if any, is limited by the statutory operation of CPLR 1601.

**AS AND FOR A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE  
DEFENSE, DEFENDANT ALLEGES AS FOLLOWS:**

16. That the damages allegedly suffered by the Plaintiffs were caused in whole or in part by the culpable conduct of the Plaintiffs. The Plaintiffs' claim is therefore barred or diminished in the proportion that such culpable conduct of the plaintiffs bear to the total culpable conduct causing the damages.

**AS AND FOR A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE  
DEFENSE, DEFENDANT ALLEGES AS FOLLOWS:**

17. In the event Plaintiffs recover a verdict or judgment against this Defendant, said verdict or judgment must be reduced pursuant to CPLR 4545(c) by those amounts which have or will replace or indemnify Plaintiff in whole or in part for any past or future claimed economic loss or from any collateral source such as insurance, social security, Workers' Compensation or employee benefit programs.

**AS AND FOR A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE  
DEFENSE, DEFENDANT ALLEGES AS FOLLOWS:**

18. The damages allegedly sustained by the Plaintiffs were caused solely by the supervening conduct of an individual or individuals not named as a party to this lawsuit.

**AS AND FOR A SIXTH, SEPARATE AND DISTINCT AFFIRMATIVE  
DEFENSE, DEFENDANT ALLEGES AS FOLLOWS:**

19. That all causes of action as alleged in the Plaintiffs' Complaint, fail to properly state, specify or allege a cause of action upon which relief can be granted, as a matter of law, against this Defendant.

**AS AND FOR A SEVENTH, SEPARATE AND DISTINCT AFFIRMATIVE  
DEFENSE, DEFENDANT ALLEGES AS FOLLOWS:**

20. The injuries and damages alleged in Plaintiffs' Complaint were caused or contributed to by the Plaintiffs' culpable conduct in assuming the risk under the conditions and circumstance existing.

**AS AND FOR AN EIGHTH, SEPARATE AND DISTINCT AFFIRMATIVE  
DEFENSE, DEFENDANT ALLEGES AS FOLLOWS:**

21. Upon information and belief, Plaintiffs misused and/or abused the specified equipment and/or tools contrary to all warnings and instructions issued by the manufacturer, distributor, retailer and/or others, and such misuse and/or abuse was the sole proximate and substantial cause of Plaintiffs' damages.

**AS AND FOR A NINTH, SEPARATE AND DISTINCT AFFIRMATIVE  
DEFENSE, DEFENDANT ALLEGES AS FOLLOWS:**

22. That the Plaintiffs have failed to join and/or name a necessary party to this action, and as such, this Defendant will be inequitably affected by a judgment against it and this action may not proceed.

**AS AND FOR A TENTH, SEPARATE AND DISTINCT AFFIRMATIVE  
DEFENSE, DEFENDANT ALLEGES AS FOLLOWS:**

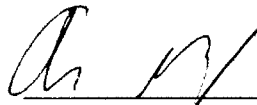
23. That this Defendant cannot be held liable for Plaintiffs' alleged injuries on the grounds that Plaintiffs, through exercise of reasonable care, could have discerned the alleged

hazard and/or defect, apprehended the defect and/or hazard and avoided the danger, as such, which were known to Plaintiffs, were open, obvious, notorious and apparent.

WHEREFORE, this answering Defendant demands judgment dismissing the Plaintiffs' Complaint against it, together with the costs and disbursements of this action, and for any expenses incurred by it in the defense thereof, including attorneys' fees actually expended.

Dated: White Plains, New York  
May 1, 2007

Yours, etc.



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Adam G. Greenberg  
Harrington, Ocko & Monk, LLP  
Attorneys for Defendant  
ROYAL CONSUMER INFORMATION  
PRODUCTS, INC.  
81 Main Street, Suite 215  
White Plains, NY 10601  
(914) 686-4800

To:

Daniel M. Braude, Esq.  
Law Office of Richard M. Kenny  
Attorneys for Plaintiffs  
777 Third Avenue, 35th Floor  
New York, NY 10017  
(212) 421-0300

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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ELIJAH RODRIGUEZ, an infant under the age of Eighteen, **Index No.: 8742/07**  
by his father and natural guardian, ARISTEDES  
RODRIGUEZ, and ARISTEDES RODRIGUEZ,  
Individually,

**ATTORNEY'S**  
**VERIFICATION**

Plaintiffs,

- against -

ROYAL CONSUMER INFORMATION PRODUCTS,  
INC.,

Defendant.

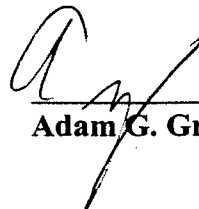
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Adam G. Greenberg, Esq., affirms under the penalties of perjury that he is a partner in the firm of Harrington, Ocko & Monk, LLP, the attorneys for Defendant, ROYAL CONSUMER INFORMATION PRODUCTS, INC., in the above-captioned action; that he has read the foregoing Answer to the Verified Complaint; and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

The reason this verification is made by your affirmant and not by the Defendant herein is that the Defendant is not in the county of Westchester, where the undersigned has his office.

The source of your affirmant's information and belief are from conversations had with the Defendant herein and from the documents in the file.

Dated: White Plains, New York  
May 1, 2007



\_\_\_\_\_  
Adam G. Greenberg

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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father and natural guardian, ARISTEDES RODRIGUEZ, and  
ARISTEDES RODRIGUEZ, Individually,

Index No.: 8742/07

AFFIDAVIT OF SERVICE

Plaintiffs,

- against -

ROYAL CONSUMER INFORMATION PRODUCTS, INC.,

Defendant.  
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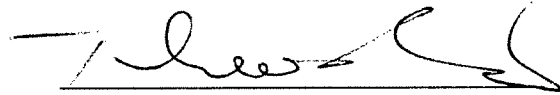
STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF WESTCHESTER         )

Theodore Politis, being duly sworn, deposes and says: I am not a party to this action, over 18 years of age, and reside in Bedford, New York.

On May 1, 2007, deponent served the within Verified Answer to Verified Complaint upon:

Daniel M. Braude, Esq.  
Law Office of Richard M. Kenny  
Attorneys for Plaintiffs  
777 Third Avenue, 35th Floor  
New York, NY 10017  
(212) 421-0300

by depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York.



Theodore Politis

Affirmed before me  
May 1, 2007



CLARISA E. KEEGAN  
Notary Public, State of New York  
No. 01KE6150312  
Qualified in Westchester County  
Commission Expires July 14, 2010